

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

## UNITED STATES DISTRICT COURT

for the

SOUTHERN DISTRICT OF INDIANA

2015 JAN 20 PM 5:35

UZAIR PARACHA

Petitioner

v.

Case No. 2:15-CV-18-JMS-MJD

(Supplied by Clerk of Court)

LEANN LA RIVA

Respondent

(name of warden or authorized person having custody of petitioner)

## PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

## Personal Information

1. (a) Your full name: UZAIR PARACHA  
 (b) Other names you have used: None
2. Place of confinement: Federal Corrections Institution  
 (a) Name of institution:  
 (b) Address: P.O. Box 33, 4200 Bureau Rd., Terre Haute, TN 47803  
 (c) Your identification number: 54896-054
3. Are you currently being held on orders by:  
☒ Federal authorities    ☐ State authorities    ☐ Other - explain:
4. Are you currently:  
☐ A pretrial detainee (waiting for trial on criminal charges)  
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
 If you are currently serving a sentence, provide:  
 (a) Name and location of court that sentenced you: U.S. District Court/Southern New York  
 (b) Docket number of criminal case: 1:03-cr-MJ01580  
 (c) Date of sentencing: July 21, 2006  
☐ Being held on an immigration charge  
☐ Other (explain):

**Decision or Action You Are Challenging**

5. What are you challenging in this petition:

- ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☒ Disciplinary proceedings
- ☐ Other (explain): \_\_\_\_\_

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Disciplinary Hearing - FCI Terre Haute, IN(b) Docket number, case number, or opinion number: 2538172

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

The loss of 41 days of Good Time Credit among other sanctions imposed upon this  
Petitioner.(d) Date of the decision or action: June 24, 2014**Your Earlier Challenges of the Decision or Action**7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: FBOP North Central Region Office(2) Date of filing: July 7, 2014(3) Docket number, case number, or opinion number: 786370-R1(4) Result: Relief denied(5) Date of result: September 9, 2014(6) Issues raised: (1) First Amendment rights to redress grievances and free speech;  
(2) Fifth Amendment rights to due process of law; and (3) 18 USCS § 4 - misprision  
of felony.

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(b) If you answered "No," explain why you did not appeal: N/A

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: FBOP Central Office - Washington, DC

(2) Date of filing: September 29, 2014

(3) Docket number, case number, or opinion number: 786370-A1

(4) Result: Relief denied.

(5) Date of result: Unanswered

(6) Issues raised: (1) First Amendment rights to redress grievances and free speech;  
(2) Fifth Amendment rights to due process of law; and (3) 18 USCS § 4 - misprision  
of felony.

(b) If you answered "No," explain why you did not file a second appeal: N/A

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☐ No N/A

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

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(b) If you answered "No," explain why you did not file a third appeal: The administrative remedies exhaustion requirement were completed with the filing of the second appeal.

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following: N/A

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes N/A ☐ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

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- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: This proceeding is not an attack on the fact of or the duration of the criminal sentence imposed in the underlying conviction.

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes ☐ No ☐ N/A

If "Yes," provide:

- (a) Date you were taken into immigration custody: \_\_\_\_\_
- (b) Date of the removal or reinstatement order: \_\_\_\_\_
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Date of filing: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Result: \_\_\_\_\_
- (4) Date of result: \_\_\_\_\_
- (5) Issues raised: \_\_\_\_\_

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Case number: \_\_\_\_\_

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(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**12. Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: \_\_\_\_\_

(b) Name of the authority, agency, or court: \_\_\_\_\_  
\_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: First Amendment violation - Free Speech and redress of grievances.

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(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

This Petitioner was retaliated for his exercising his right to redress his grievances thru an administrative tort claim filing per 28 CFR § 543.30. At ALL times this Petitioner complied with the information gathering process and after the claim was denied, he was sanctioned when he requested a copy of the investigation report which he intended to use in a court proceeding to further redress his grievances. The sanctions serve as direct retaliation for his free speech requests for information.

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes☐ NoGROUND TWO: Fifth Amendment due process of law.(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

FBOP internal guideline no. 5270.09 or otherwise mandates that the disciplinary hearing officer be an independant, unbiased fact finder. D. Ezekiel, the individual who conducted this disciplinary proceeding is a FBOP employee who reports directly to this Respondant as an employee of this instant penal facility. As a result, he will always have a conflict of interest to insure supervisor is not impacted by litigation such as this now-filed court proceeding. The use of D. Ezekiel as the hearing officer is thus a due process of law violation.

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes☐ NoGROUND THREE: 18 USCS § 4 - Misprision of Felony, 18 USCS § 1001 - Falsification of government records.(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

This Petitioner was accused of the criminal acts of use of the mails for an illicit/illegal purpose. Contrary to what has been said, FBOP employeas are not exempt from the reporting requirements of 18 USCS § 4. The FBOP did NOT report this alleged criminal activity for further outside investigation and possible prosecution because it knew that the exercise of one's constitutionally protected rights such as free speech, redress of grievances and due process can never be deemed to be a crime. This lack of reporting serves as further conclusive evidence that the issues addressed herein were misstated in false statements on federal government forms. 18 USCS § 1001.

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes☐ No

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**GROUND FOUR:** ~~Exhibit~~ Exhibit 1 affixed hereto represents the letter which precipitated this entire matter. At no time did this Petitioner "threaten" anybody and this fact is documented therein. Any assertion otherwise is a fabrication and with this Petitioner being denied his Fifth Amendment right to call witnesses, this entire Incident Report must be expunged.

(a) Supporting facts (Be brief. Do not cite cases or law.):

The attached Exhibit no. 1 is self-explanatory and this document was not allowed to be introduced which would have proved this Petitioner's point that no offense occurred. As such, this document and the relevant witnesses must be allowed to be called to the disciplinary process, allowing this Petitioner's fifth Amendment due process rights to be protected.

(b) Did you present Ground Four in all appeals that were available to you?

☒ Yes N/A ☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: No

#### Request for Relief

15. State exactly what you want the court to do: A court order directing the FBOP to expunge the Incident Report which led to this disciplinary proceeding from its records and a restoration of the 41 days of Good Time Credit lost for this exercise of this Petitioner's constitutionally protected rights as delineated herein.



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**Declaration Under Penalty Of Perjury**

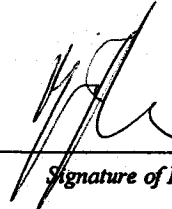
If you are incarcerated, on what date did you place this petition in the prison mail system:

January the 15<sup>th</sup>, 2015.

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

1/15/2015




*Signature of Petitioner*

N/A

*Signature of Attorney or other authorized person, if any*

authorized to receive the information must be included on the authorization; and finally, the authorization must have an original signature.

Sincerely,

  
Richard W. Schott  
Regional Counsel



U.S. Department of Justice  
Federal Bureau of Prisons

North Central Regional Office

Office of Regional Counsel

400 State Avenue  
Tower II, Suite 800  
Kansas City, KS 66101

MAY 09 2014

Uzair Paracha  
Register No. 54896-054  
FCI Terre Haute  
P.O. Box 33  
Terre Haute, IN 47808

Re: Administrative Claim TRT-NCR-2013-06531  
Request for Information

Dear Mr. Paracha:

This is in response to your correspondence received on May 5, 2014, requesting information and documents pertaining to the investigation of the above- referenced tort claim.

Pursuant to Title 28, Code of Federal Regulations, Part 513.60, a request for Bureau records must be made in writing and addressed to the Director, Federal Bureau of Prisons, 320 First Street N.W., Washington, D.C. 20534. The requester shall clearly mark on the face of the letter and the envelope "FREEDOM OF INFORMATION REQUEST" and shall clearly describe the records sought.

You should be aware that, in accordance with 28 C.F.R., Part 16.3 or 16.41, a request for information directed to the Federal Bureau of Prisons is not deemed properly filed until received by the component at the address specified in Appendix I, Title 28 C.F.R., which is noted above. Additionally, once the component receives a request for records, a review of the request is conducted by the Central Office FOI/PA Section to determine whether the required elements of a request under the applicable information access statutes and regulations have been met. Required elements include an authorization to release information dated within 3 months of the request; the authorization must include the individuals full name, date of birth, place of birth and current address; the subject's signature must be notarized; the name of the individual